

1-1 By: Ellis, Carona S.B. No. 1175  
1-2 (In the Senate - Filed March 6, 2007; March 14, 2007, read  
1-3 first time and referred to Committee on Criminal Justice;  
1-4 April 27, 2007, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 27, 2007,  
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1175 By: Carona

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the elimination of sexual assault against inmates  
1-11 confined in a facility operated by or under contract with the Texas  
1-12 Department of Criminal Justice.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Article 57.02, Code of Criminal Procedure, is  
1-15 amended by adding Subsection (i) to read as follows:

1-16 (i) This article does not prohibit the inspector general of  
1-17 the Texas Department of Criminal Justice from disclosing a victim's  
1-18 identifying information to the department's ombudsperson if the  
1-19 victim is an inmate or state jail defendant confined in a facility  
1-20 operated by or under contract with the department.

1-21 SECTION 2. Article 57.03, Code of Criminal Procedure, is  
1-22 amended by adding Subsection (c-1) to read as follows:

1-23 (c-1) It is an exception to the application of this article  
1-24 that:

1-25 (1) the person who discloses the name, address, or  
1-26 telephone number of a victim is the inspector general of the Texas  
1-27 Department of Criminal Justice;

1-28 (2) the victim is an inmate or state jail defendant  
1-29 confined in a facility operated by or under contract with the  
1-30 department; and

1-31 (3) the person to whom the disclosure is made is the  
1-32 department's ombudsperson.

1-33 SECTION 3. Chapter 501, Government Code, is amended by  
1-34 adding Subchapter F to read as follows:

1-35 SUBCHAPTER F. ELIMINATION OF SEXUAL ASSAULT AGAINST INMATES

1-36 Sec. 501.171. DEFINITIONS. In this subchapter:

1-37 (1) "Correctional facility" means a facility operated  
1-38 by or under contract with the department.

1-39 (2) "Inmate" means an inmate or state jail defendant  
1-40 confined in a facility operated by or under contract with the  
1-41 department.

1-42 Sec. 501.172. APPOINTMENT OF OMBUDSPERSON. The board shall  
1-43 appoint an ombudsperson to coordinate the department's efforts to  
1-44 eliminate the occurrence of sexual assault in correctional  
1-45 facilities. The ombudsperson shall report to the board.

1-46 Sec. 501.173. POWERS AND DUTIES OF OMBUDSPERSON. (a) The  
1-47 ombudsperson shall:

1-48 (1) monitor department policies for the prevention of  
1-49 sexual assault in correctional facilities;

1-50 (2) oversee the administrative investigation of  
1-51 inmate complaints of sexual assault;

1-52 (3) ensure the impartial resolution of inmate  
1-53 complaints of sexual assault; and

1-54 (4) collect statistics regarding all allegations of  
1-55 sexual assault from each correctional facility in accordance with  
1-56 the standards established by the National Prison Rape Elimination  
1-57 Commission.

1-58 (b) The ombudsperson may collect evidence at correctional  
1-59 facilities and interview inmates or employees at correctional  
1-60 facilities in conducting an investigation of an inmate complaint of  
1-61 sexual assault under this section.

1-62 Sec. 501.174. DEPARTMENT TO ADOPT POLICY. The department  
1-63 shall adopt a policy providing for:

2-1 (1) a designated administrator at each correctional  
 2-2 facility to post information throughout the facility describing how  
 2-3 an inmate may confidentially contact the ombudsperson regarding a  
 2-4 sexual assault;  
 2-5 (2) an inmate to write a confidential letter to the  
 2-6 ombudsperson regarding a sexual assault;  
 2-7 (3) employees at correctional facilities, on  
 2-8 notification of the occurrence of a sexual assault, to immediately:  
 2-9 (A) contact the ombudsperson and the office of  
 2-10 the inspector general; and  
 2-11 (B) ensure that the alleged victim is safe;  
 2-12 (4) the office of the inspector general, at the time  
 2-13 the office is notified of the sexual assault, to arrange for a  
 2-14 medical examination of the alleged victim to be conducted in  
 2-15 accordance with Article 56.06, Code of Criminal Procedure, or, if  
 2-16 an appropriate employee of the office of the inspector general is  
 2-17 not available at the time the office is notified of the sexual  
 2-18 assault, a qualified employee at the correctional facility to  
 2-19 conduct a medical examination of the alleged victim in accordance  
 2-20 with Article 56.06, Code of Criminal Procedure;  
 2-21 (5) a grievance proceeding under Section 501.008 based  
 2-22 on an alleged sexual assault to be exempt from any deadline  
 2-23 applicable to grievances initiated under that section; and  
 2-24 (6) each correctional facility to collect statistics  
 2-25 on all alleged sexual assaults against inmates confined in the  
 2-26 facility and to report the statistics to the ombudsperson.  
 2-27 Sec. 501.175. OMBUDSPERSON TO MAKE AVAILABLE TO PUBLIC  
 2-28 CERTAIN INFORMATION. The ombudsperson shall make available to the  
 2-29 public and appropriate state agencies:  
 2-30 (1) information regarding the powers and duties of the  
 2-31 ombudsperson; and  
 2-32 (2) statistical information regarding the total  
 2-33 number of allegations of sexual assault investigated by the  
 2-34 department, the outcome of the investigations, and any disciplinary  
 2-35 sanctions imposed as a result of the investigations.  
 2-36 Sec. 501.176. ANNUAL REPORT. (a) Not later than January 1  
 2-37 of each year, the ombudsperson shall submit a written report  
 2-38 regarding the activities of the ombudsperson during the preceding  
 2-39 fiscal year to:  
 2-40 (1) the governor;  
 2-41 (2) the lieutenant governor;  
 2-42 (3) the speaker of the house of representatives;  
 2-43 (4) the presiding officer of each house and senate  
 2-44 committee having jurisdiction over the department;  
 2-45 (5) the board;  
 2-46 (6) the executive director;  
 2-47 (7) the state auditor; and  
 2-48 (8) the comptroller.  
 2-49 (b) The report must include public information regarding:  
 2-50 (1) each investigation and monitoring activity  
 2-51 relating to sexual assault completed during the fiscal year by the  
 2-52 ombudsperson and the inspector general; and  
 2-53 (2) statistics collected by the ombudsperson  
 2-54 regarding allegations of sexual assault.  
 2-55 (c) The annual report must meet the financial reporting  
 2-56 requirements of the General Appropriations Act.  
 2-57 Sec. 501.177. STATE AUDITOR AUDITS, INVESTIGATIONS, AND  
 2-58 ACCESS TO INFORMATION NOT IMPAIRED. This subchapter or other law  
 2-59 related to the operation of the ombudsperson or the office of the  
 2-60 inspector general does not prohibit the state auditor from  
 2-61 conducting an audit, investigation, or other review or from having  
 2-62 full and complete access to all records and other information,  
 2-63 including witnesses and electronic data, that the state auditor  
 2-64 considers necessary for the audit, investigation, or other review.  
 2-65 Sec. 501.178. AUTHORITY OF STATE AUDITOR TO CONDUCT TIMELY  
 2-66 AUDITS NOT IMPAIRED. This subchapter or other law related to the  
 2-67 operation of the ombudsperson or the office of the inspector  
 2-68 general does not take precedence over the authority of the state  
 2-69 auditor to conduct an audit under Chapter 321 or other law.

3-1 SECTION 4. Subsection (c-1), Article 57.03, Code of  
3-2 Criminal Procedure, as added by this Act, applies only to an offense  
3-3 committed on or after the effective date of this Act. An offense  
3-4 committed before the effective date of this Act is governed by the  
3-5 law in effect when the offense was committed, and the former law is  
3-6 continued in effect for that purpose. For purposes of this section,  
3-7 an offense was committed before the effective date of this Act if  
3-8 any element of the offense was committed before that date.

3-9 SECTION 5. Not later than December 1, 2008, the Texas  
3-10 Department of Criminal Justice shall appoint an ombudsperson and  
3-11 adopt a policy as required by Subchapter F, Chapter 501, Government  
3-12 Code, as added by this Act.

3-13 SECTION 6. Not later than January 1, 2009, the ombudsperson  
3-14 of the Texas Department of Criminal Justice shall submit the first  
3-15 report required by Section 501.176, Government Code, as added by  
3-16 this Act.

3-17 SECTION 7. This Act takes effect immediately if it receives  
3-18 a vote of two-thirds of all the members elected to each house, as  
3-19 provided by Section 39, Article III, Texas Constitution. If this  
3-20 Act does not receive the vote necessary for immediate effect, this  
3-21 Act takes effect September 1, 2007.

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